IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Crl.MC.No. 2230 of 2004

CC.212/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA

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PETITIONER/ACCUSED NO.2:

JAISON.K.PAUL,
KIZHAKEPEDIKA HOUSE,
CHELAKOTTUKARA, THRISSUR.

BY ADV. SRI.T.C.THOMAS
SRI.K.N.CHANDRABABU

RESPONDENTS/COMPLAINANT:

1. C.T.ANTONEY, FOOD INSPECTOR,
   CHALAKKUDY CIRCLE, CHALAKKUDY.

2. T.O.LAZER, THEKKUMPURAM HOUSE,
   ALAGAPPANAGAR P.O.

3. STATE OF KERALA REP. BY PUBLIC
   PROSECUTOR, HIGH COURT OF
   KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.M.C.No. 2230 of 2004

ORDER

The petitioner is the second accused in C.C.No. 212/99 on the file of the Judicial First Class Magistrate's Court, Irinjalakuda. The complaint is filed by the first respondent Food Inspector alleging that samples of ice cream mix taken from the premises of the second respondent/first accused are found adulterated and the petitioner is arrayed as an accused, being the manufacturer of the said ice cream mix. According to the petitioner, he was engaged in the manufacture of “Ice cream mix” under the name and style “Classic” and that is a propriety food item and not dried ice cream mix and therefore, the product ice cream mix manufactured by the petitioner under the name and style 'Classic' cannot be expected to maintain the standard of dried ice cream mix under the Prevention of Food Adulteration Rules 1955 and the petitioner cannot be stated to have committed any

offence as alleged for the reason of Annexure-B report of Public Analyst, reporting that the sample forwarded does not conform to the standard of dried ice cream mix.

2. It is worthy to note that the ice cream mix is to contain only sucrose, colours, flavours, stabilisers, emulsifiers, etc. without milk ingredients, as has been certified in Annexure-C certificate and as has been held by this Court in Annexure-E and F judgments.Consequently, therefore, no offence as alleged can be stated to have been committed by the petitioner and proceeding with the trial of the case as against the petitioner is not to end in conviction and will be only an abuse of the process of court.

In the result, allowing this Crl.M.C., I quash the proceedings against the petitioner in C.C.No. 212/99 on the file of the Judicial First Class Magistrate's Court, Irinjalakuda.

6th August, 2007 (K.P.Balachandran, Judge)

tkv